account at least some of the itemization categories when establishing rate regulation of the basic service tier. Pub. L. No. 102-385, §3(b)(2)(c)(vi)(1992). Therefore, the Massachusetts Commission urges the FCC to adopt rules which clearly define, in plain language, for the subscriber and the operator, the costs which may be itemized. The Massachusetts Commission is concerned that if bill itemization rules are not clear, this portion of the bill will become a rate increase catch bin.

The Massachusetts Commission believes that the FCC should clarify the meaning of "the amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels." Pub. L. No. 102-385, §14(c)(2)(1992). For example, it is unclear as to whether or not the cable operator is entitled to include costs related to "free" institutional cable drops or support for an institutional network ("I-Net") as part of the "governmental channels or the use of such channels". There are communities in Massachusetts in which only a portion of the I-Net will be utilized by the local government. In addition, it is foreseeable that the I-Net may be used in the future by a leased access user or by the cable operator itself. It should not be incumbent on the franchising authority to determine what portion, if any, of these costs may be itemized. The Massachusetts Commission urges the FCC to determine or at least to provide guidelines as to which costs an operator may itemize.

The 1992 Act allows an operator to itemize the amount of "any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber." Pub. L. No. 102-385, §14(c)(3)(1992). The Massachusetts Commission questions the interpretation of this category with regard to the itemization of costs which are components of the cable operator's operating expenses such as copyright fees or retransmission consent payments. Harron Cablevision of Massachusetts ("Harron") has proposed to itemize its copyright fees pursuant to the 1992 Act. The Massachusetts Commission believes that these expenses are not amounts which are paid to a "governmental authority" within the meaning of the Act nor are they amounts the liability for which arises from the "transaction between the operator and the subscriber". Pub. L. No. 102-385, §14(c)(3)(1992).

The Massachusetts Commission understands that copyright fees for the compulsory license are collected by the Register of Copyrights (the "Register") and distributed by the Copyright Royalty Tribunal (the "CRT"). However, we believe that the Register and the CRT are merely administrative clearinghouses for these payments; it is not the Register or the CRT which imposes the requirement that an operator pay copyright fees. The Massachusetts Commission also believes that copyright charges result from the "transaction" between the programmer or the broadcaster and the operator, not the operator and the subscriber. It is not the subscriber's reception of the signal but the transmission of the signal by the operator which triggers the liability for copyright payment.

The Massachusetts Commission believes it should be clear as to which direct costs may be itemized so as to prevent an operator from randomly selecting operating expenses to itemize on a subscriber's bill. We fear that some operators may use the itemization provision to unjustly manipulate both public opinion regarding the effect of the Act and an operator's negotiations with broadcasters for retransmission consent. We have received correspondence from Harron's lawyer that states "Harron is fully within its rights to configure its bills in any way it desires -- and to itemize <u>any</u> cost items it chooses . . . ."

<u>B. Audit; Computation; Appearance</u>

The auditing and computation of the line-item costs is of particular concern to franchising authorities and should be clearly defined for them. The Massachusetts Commission suggests that cable operators electing to itemize their costs be required to send a franchising authority a notice each year which accurately informs the franchising authority of the cost of the franchise fee and the franchise agreement obligations both on an aggregate and on a per subscriber basis.[10] An additional notice should be required at any time when changes in the franchise fee or franchising agreement result in a revision to

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[10] The Massachusetts Commission suggests that the computation of franchise fees and other itemized costs should be based on subscriber counts or revenue as of a particular date each year and that the FCC's regulations should stipulate this date.

the subscriber's bill. In addition, a franchising authority must have the authority to review the documentation and figures on which a cable operator's calculation of these costs is based.

The FCC has indicated that it intends to incorporate in its rules the congressional intent that "such costs be itemized as part of the total bill, not separately billed." Notice, Paragraph 175. The Massachusetts Commission concurs with this approach. The Massachusetts Commission would like to point out that when a franchise fee is itemized on a bill as a separate "add-on" charge, the method by which the franchise fee (when calculated on gross revenue) is fundamentally changed. If operators are allowed to itemize this amount as a separate "add-on" charge, it effectively allows the operator to reduce the gross revenue on which the franchise fee is based.[11]
The Massachusetts Commission is concerned not only that the operator would be paying an incorrect franchise fee to the franchise authority but also that the consumer is not receiving accurate information about the cost of the franchise fee. We should add that the orientation of this Commission is to avoid unnecessary regulation and business restrictions. However, we

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[11] For example, consider the following billing summary that would typify many cable operators' billing practices:

cable service	\$20.00
5% franchise fee	1.00
amount due	\$21.00

In this case, the monthly gross revenue for this subscriber equals \$21.00; therefore, an accurate accounting of a franchise fee that is based on gross revenue should be 5% of \$21.00, which is \$1.05 not \$1.00.

see this as a significant issue as it: (1) potentially affects the efficiency of the Act's rate regulations; (2) may lead to an increased administrative burden as regulators will be called upon to review these figures; and (3) will potentially lead to significant subscriber billing confusion.

VII. Negative Option

In responding to the FCC's comments regarding negative option billing, we begin by saying we support the concept of a restriction on negative option billing; Massachusetts enacted regulations regarding negative option billing in 1986. 207 CMR 10.02(7)(1990). The Massachusetts regulation reads as follows: "Every cable television operator shall obtain a subscriber's consent prior to providing the subscriber with a service package substantially different from that previously provided to the subscriber at an additional cost." 207 CMR 10.02(7)(1990). The intent of this regulation is "aimed at (preventing) an operator practice by which a subscriber is automatically given additional services at a greater cost unless the subscriber tells the operator otherwise within a certain period of time." Report and Order, R-16, issued June 11, 1986. This regulation has been used and tested in Massachusetts and has proven to be effective. The effectiveness of the regulation was evident when Telecommunications, Inc. was prohibited from implementing the Encore negative option marketing scheme which was used in other states in 1991.

A. Tier Changes

We conditionally agree with the FCC that "a change in the composition of a tier that was accompanied by a price increase justified under [FCC] rate regulations would not be subject to the negative option billing prohibition." Notice, Paragraph 120. We agree that the negative option prohibition does not pertain to normal price increases or to minor changes in a tier of service. However, we believe that a change in the composition of a tier making that tier <u>substantially different</u> from that which was previously offered to the subscriber and is offered at an additional cost would be a change which would be subject to the prohibition.

Another example of a substantial change in a service package that would violate the negative option billing restrictions would be when a cable operator eliminates an entire tier of service and moves all subscribers to that tier to a higher tier of service which includes additional programming and is offered at an additional price. For instance, assume a cable operator has offered three levels of service (1) "Broadcast"; (2) "Economy"; and (3) "Standard", and then eliminates the Economy tier of service and realigns the composition of each of the other two tiers to accommodate the programming previously offered in the Economy tier. This is a substantial change in a service package and the cable operator may not automatically reclassify Economy tier subscribers to the Standard tier without first receiving affirmative consent of the subscriber to pay the higher price.

The FCC asks the related question as to whether or not a cable operator should be required to "notify subscribers at least 30 days in advance of a change in a system's offerings, such as an addition to a tier or an equipment upgrade, accompanied by a price increase." Notice, Paragraph 120. The Massachusetts Commission, in the same proceeding in which it adopted the negative option prohibition, promulgated regulations requiring notification of certain changes in rates and service. 207 CMR 10.02(1990). Specific to the question raised above, Massachusetts regulations read as follows: "Thirty days prior to implementing an increase in one of its rates or charges <u>or</u> a substantial change in the number or type of programming services, the operator shall notify, in writing, the [Massachusetts] Commission, the [franchising] authority and all affected subscribers of the change and include a description of the increased rate or charge. The notice shall list the old and new rate or charge and, if applicable, the old and new programming services provided." 207 CMR 10.02(5)(1990).

The definition of "substantial change" will vary from situation to situation, but usually will not involve the addition or deletion of a single channel to a tier. The Massachusetts Commission's position has been that only substantial changes in the number or type of programming services would require a 30 day notification period. As noted above, we strongly support and presently enforce our regulation requiring a cable operator to give subscribers 30 days notice prior to implementing any rate increase.

The FCC requests comment on "the type of tier changes that may be made without violating the negative option billing restriction" and "whether subscribers should be given notice of such changes." Notice, Paragraph 118. We believe that the following examples represent situations which would be exempt from the negative option provisions of the 1992 Act:

> (1) A cable operator makes an addition to the services offered to subscribers of a particular tier without a corresponding rate increase.[12]
>
> (2) A cable operator splits the basic tier and provides a subscriber with the combination of the two tiers which creates the same service package previously offered.[13]

We believe that, when coupled with the 30 day notice provisions discussed above, incorporation of these exclusions into FCC regulations would be appropriate. As we stated earlier, in 1986 the Massachusetts Commission enacted regulations regarding notice and negative option billing that have worked well. However, it is not clear from our reading of the 1992 Act whether or not the language of the Act is broad enough to allow this interpretation of the negative option provisions. We are concerned that a narrow reading of this section of the Act could lead to difficulty in implementing its provisions.

B. Implementation of the Basic Service Definition

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[12] However, if the addition is substantial, the operator would be required to give subscribers 30 days notice pursuant to Massachusetts regulations.

[13] Although this may not violate the negative option provisions of the 1992 Act, we note that under Massachusetts regulations, if this change was accompanied by a rate increase, the operator would be required to give subscribers 30 days notice.

The FCC requests comment on how the negative option provision should apply to initial implementation of the basic cable service rate structure. Notice, Paragraph 121. Specifically outlined in this portion of the Notice is the situation in which "an operator may have been offering a basic service consisting of more channels than are now required under the Cable Act's definition of basic service. It may now effectively be required to split the former basic service into the Act's formulation of basic service and an expanded basic tier." Notice, Paragraph 121. The FCC raises the question of whether or not the operator may continue to bill a subscriber who does not affirmatively request both basic and expanded basic at the old rate and if the rate is changed, may the operator bill the subscriber at another (presumably higher) rate. We believe that if a price increase accompanies a change in tiers and that price increase is justified under FCC rate regulation, then the cable operator could charge the increased rate without violating the negative option billing restrictions.

We believe that in this situation, the service package provided to the subscriber does not differ substantially from the former package offered. The cable operator simply split the former basic tier into two tiers and provided both tiers to the subscriber. The outcome of this tier change did not effect the cumulative service package offered to the subscriber. This change in tiers, however, displays a substantial change in the number and types of services offered by a cable operator to its subscribers and, as such, pursuant to Massachusetts regulations, would be subject to the 30 day billing notice provision discussed above. The same notification requirement would hold true if a rate increase was coupled with the change in tiers of service.

The Massachusetts Commission urges the FCC to consider Massachusetts' negative option regulation when developing its rules on negative option billing practices. As stated earlier, the Massachusetts regulation has proven effective yet allows for flexibility for case-by-case differences.

VIII. Geographically Uniform Rate Structure

A. Special Rate Arrangements

The FCC has requested comment on "the extent to which cable operators' ability to establish service categories with separate rates and terms and conditions of service is limited by the requirement for a geographically uniform rate structure . . . [and] on whether cable operators should be afforded the flexibility to establish bona fide service categories with separate rates and service terms and conditions." Notice, Paragraph 112. Questions regarding special rate arrangements (i.e. bulk rate agreements) represent one of the more interesting aspects of rate regulation's impact on competition as it speaks to one of the few instances where we currently experience head-to-head multi-channel video competition. To date, SMATV systems have represented one of the few competitive alternatives to cable television. Colleges and universities, large MDUs, hotels, and other similar groups of users (for purposes of this discussion we will collectively refer to these types of users as "MDUs") have enjoyed the benefit of this competitive alternative.[14]

It is our understanding that it is common practice for cable companies to lower their rates, in response to the presence of or the prospect of a SMATV competitor, in order to meet this competition. The resulting price discrimination has negated the benefits that would otherwise be derived from the presence of competition. Specifically, if rates for identical services were charged to MDUs and residential subscribers alike, a cable operator's plans for a rate increase would have to factor the possible subscriber (and revenue) loss from MDUs that could opt for the alternative of a SMATV system.

In supporting the practice of separate rates, cable operators may accurately point out that SMATV operators are not required to pay for franchise concessions such as franchise fees, PEG access, I-Nets and the like. In addition, cable operators may point out that SMATV operators are not burdened with the universal service area requirements that are required of most cable operators. Some would argue that these regulatory differences give SMATV providers the opportunity for "cream

[14] While broadcasters, video stores and the like provide elements of competition, SMATV providers compete for the broad scope of services offered by cable television and thus compete in a more direct manner.

skimming."[15] Regardless, an allowance for special bulk rate pricing appears to be contrary to the 1992 Act.

The Act prohibits discriminatory pricing in a franchise ("geographic") area.[16] Pub. L. No. 102-385, §3(d)(1992). We recognize that the 1992 Act states that in awarding a competing franchise, a franchising authority may require assurance that the operator will provide adequate public, educational and governmental access channel capacity, facilities or financial support. Pub. L. No. 102-385, §7(b)(4)(B)(1992). Further, we recognize that Congress directed the FCC to develop rules and regulations regarding DBS obligations. Pub. L. No. 102-385, §25(a)(1992). The Massachusetts Commission believes that this language represents an underlying congressional intent of not handicapping any group of competitors. The question then arises as to when, based on this interest in not picking winners, the FCC should allow cable operators to "factor out" direct franchising authority costs when serving MDUs. In analyzing this question one must also consider that when MDU residents are connected to the cable system they become users, if not beneficiaries, of access programming and regulatory oversight.

In sorting out this matter, we raise the following

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[15] While this may be true, the Massachusetts Commission notes that other attempts to introduce telecommunications competition (e.g. the introduction of inter-exchange carrier competition and the more current competition by alternative local loop access providers who are not required by law to wire entire universal service areas) are based on similar cream skimming practices.

[16] See the section of these comments entitled Uniform Rates for Franchise v. Geographic Areas, page 38.

hypothetical questions: First, would a cable operator be in violation of the 1992 Act if it incorporated a separate rate card for subscribers in one part of a franchise area that were able to receive a MMDS signal? We believe that this would be a violation. Secondly, we ask if, assuming the advent of DBS, it would be a violation to charge different rates to subscribers in one portion of a franchise area that was shielded by city buildings in a way that prevented reception of service from a DBS provider? We believe that this too would be a violation. Considering these conclusions, we believe that it is difficult to justify discriminatory rates in the case of competition from SMATV and not MMDS or DBS competition. Perhaps the most startling inconsistency of this type of comparative analysis would be apparent in asking the question of whether or not a residential subscriber could negotiate a special rate because he or she has the alternative of opting to install a backyard satellite dish. This comparison is not only the most startling, it is the most direct.

A closely related but not identical question relates to whether or not other cost differentials such as centralized MDU billing, specially designed tiers, and/or installation credits for existing customer premises wiring should be allowed, where reasonable and justified. We believe that varying rates for these "special packages" should be allowed where they are justified and reasonable. However, we believe that this justification should be made part of the public record as it is a type of Individual Case Basis ("ICB") pricing that varies from regulated rates.[17] Submitted ICB's should be public record and parties should be able to petition the FCC to appeal an ICB rate. Further, this presents interesting policy questions regarding the reselling of cable television services.[18] It is our position that denying any qualified group a special programming package would be a discriminatory practice.

B. Uniform Rates for Franchise v. Geographic Areas

The FCC also seeks comment on "the meaning of the term 'geographic area' as used in [the uniform rate provision] of the Act." Notice, Paragraph 114. The FCC states that "[i]f Congress intended to limit the meaning of geographic area to a franchise area, it could have used the less ambiguous term." Notice, Paragraph 114. As outlined in the rulemaking, the use of the term "geographic area" could apply to two separate franchise authorities when there is a contiguous area served by one cable system. Notice, Paragraph 115. However, as noted, this

[17] In the case of telephone tariffs, ICB's undergo an approval process. We consider this to be an unnecessarily burdensome requirement in the case of cable television.

[18] If one believes that cable operators should be allowed to produce different rates for different classes of subscribers based on billing, bulk discounts, and special tiers, should operators be required to make these services available to a reseller who could, for example, guarantee a certain number of subscribers, serve as a single billing point for those subscribers and be accountable for all bad debt? In addition, it would be consistent to argue that a residential subscriber should be able to receive a discount for existing wiring if this same practice is applied to MDUs. We believe that this would, in theory, represent an important market-based regulatory check on bulk rate agreement price discrimination.

interpretation could lead to, or require, rate cross-subsidizations between communities. Notice, Paragraph 115.

Rates in densely populated franchise areas, representing desirable cable markets, could be forced up in order to support more rural contiguous franchises.[19] In addition to cost differences resulting from housing density, there could also be other major cost differences. These differences could relate to: the age (and thus the value) of the plant; franchising requirements and their reflected costs; programming, to the extent targeted to a community and to the extent determined by a franchisor's requirements for broad programming categories.

The question of uniform pricing concerns rates yet it raises even greater questions of its impact on the jurisdictional oversight of cable television. Creating uniform pricing over a geographic area that extends beyond the franchise area would dramatically depart from the structure of current cable regulation. If Congress intended to make such a dramatic change in the regulatory oversight of cable, it is doubtful that this result would have been accomplished with a single word choice deep within the confines of a major piece of legislation.

As stated above, we strongly oppose usurpation of local community rights. Nevertheless, we recognize, as the FCC states, that Congress' word choice could be argued to be intentional.

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[19] The FCC's note that its 1990 FCC rate study questions the common assumption that small rural systems have higher costs and thus higher rates raises some question as to the legitimacy of this concern.

Notice, Paragraph 114. In considering this matter, it is reasonable to assume that Congress may have intended that common cost elements that go into the development of rates for each community in the geographic area should be allocated in a uniform manner. Other costs associated with each community's distribution plant, non-common programming costs, differing franchising costs, and the like, would be dependent on each community and thus non-uniform. We believe this interpretation meets the legal requirements of the 1992 Act without introducing a fundamental shift in the way in which cable television is regulated.

IX. LEASED ACCESS

A. Rates for Leased Access

It has been the experience of the Massachusetts Commission that there are significant hurdles that have blocked the expansion of leased access. There are understandable concerns that impact the negotiations between the cable operator and the potential leased access programmer. The cable operator and the leased access programmer could have significant conflicting (and competing) interests. These include:

1) the cable operator may have concerns about relinquishing excess channel capacity;
2) the cable operator may be developing its own network or programming service that would compete with the leased access provider's programming; and/or
3) the cable company may, after a fledgling leased access

venture gains viewership, develop its own programming service that would compete with the leased access provider's programming.

While these issues will likely be the ongoing concerns of leased access programmers, the FCC may now minimize any cable operator's potential demands for unreasonable leased access rates that are attempts to prevent access to a potential competitor. Under existing rules, an aggrieved programmer must show clear and convincing evidence that the cable operator's price was unreasonable. 47 U.S.C. §612(f)(1991). This requirement provides ample opportunity for a cable operator to slow the efforts of a potential leased access programmer.

The Massachusetts Commission urges the FCC to adopt a leased access scheme that would present the would-be leased access programmer with a quickly identifiable and reasonable rate. We support the FCC's concept of benchmark rates or a maximum rate for leased access. We also support the concept whereby providers and suppliers would have the flexibility of negotiating under this ceiling on an individual case basis. In addition, we suggest that the FCC may want to consider making it a requirement to file individual case basis leased access agreements with franchising authorities and/or the FCC.

While the Massachusetts Commission is not in a position to speculate on the future of leased access, we note that a more workable leased access scheme may make leased access more active. Further, a more workable leased access could potentially: (1)

increase the diversity of speech; (2) increase consumer choice; (3) add programming competition; and (4) create economic expansion as new players are able to participate in the delivery of broadband information.

B. Billing and Collection for Leased Access

In a related matter, the FCC asks if cable operators should be required to provide billing and collection services in connection with leased commercial access. Notice, Paragraph 152. We tentatively conclude that the 1992 Act does not necessarily require cable operators to provide billing and collection services. However, we note that providing leased access on certain channels, namely pay-per-view, may require utilization of the cable operator's billing system (or an interface to that billing system). If, in fact, this utilization or interface is needed to accommodate leased access on a pay-per-view basis, the FCC should make access to the billing system mandatory.

In concluding our remarks on this provision, we note that pay-per-view leased access may be an important development as (1) pay-per-view is considered by many as a growth area; (2) pay-per-view may be well suited to leased access programmers who have yet to secure enough programming to be carried on an entire channel; and (3) pay-per-view will eventually be available to the entire subscription base as a result of the 1992 Act's buy-through provisions.

X. Franchise Authority as a Party to Subscriber Complaints

The FCC requests comments on "specific forms or language that might be standardized for use by subscribers in filing rate-related complaints . . . [and] how such standardized information might be made widely available." Notice, Paragraph 101. The FCC also states that "[h]aving a franchise authority provide a statement or decision concerning the alleged violation as part of a subscriber's complaint might facilitate the drafting of the complaint, provide better notice to a cable operator of the allegations, and expedite resolution of the dispute." Notice, Paragraph 102. The Massachusetts Commission supports the use of standardized forms for complaint filing and agrees with the FCC's position regarding the benefits of franchise authority involvement.

The Massachusetts Commission proposes that standardized forms be developed by the FCC and used for the submission of cable programming complaints, and that the franchise authority be responsible for the distribution of the forms. In addition to the distribution of the forms we propose that the franchise authority also be responsible for (1) assisting subscribers with filling out the form, (2) collecting the form after it has been completed, (3) providing comments on the form regarding the complaint, and (4) forwarding a copy of the completed complaint form to the FCC and the cable operator. This proposed procedure would expedite the complaint process on the federal level and provide the FCC with local assistance in collecting cable system and franchise specific information necessary for determining the substance of a complaint. Further, it would minimize the FCC's need to screen frivolous and unsubstantiated complaints.

The FCC has an interest in screening out frivolous and unsubstantiated complaints in order to be able to provide more time for substantive complaints. The complaint procedure we have outlined above provides a more efficient alternative to the FCC being the first level of complaint review. For example, in addition to the role the local authority will have in assuring complaint forms are filled out completely and correctly, the local authority may be able to provide, through its comments on the complaint form, supplemental information regarding (1) the validity of the information included in the subscriber complaint, when necessary and/or possible, (2) the effect a specific complaint may have on other subscribers, and (3) the effect a complaint regarding cable programming rates, and the subsequent decision from the FCC, will have on basic cable service regulation. Moreover, if the FCC acted as the first level of complaint review then the FCC staff would be responsible for researching the specifics of every franchise area where a complaint is pending whether or not that complaint proves to be substantial. In Massachusetts, as in other parts of the country, local authorities currently are responsible for first level consumer complaint resolution. Although local authorities may argue that this proposal would be an added burden, it is an area in which they already have experience.[20] We do not believe

[20] By incorporating local or state involvement, a complaint may be resolved without the need to escalate it to the FCC level. This would be especially true in situations in which a consumer

that this complaint procedure conflicts with the provisions of the 1992 Act which specifically permits subscribers, as well as franchising authorities and other relevant local and state governmental entities, to file complaints.[21]

The Massachusetts Commission believes that a reasonable period to file a complaint after a change in cable programming rates would be 60 days from the time a subscriber receives notice of such a rate change. See Notice, Paragraph 105. In Massachusetts, we have found that subscribers often do not read rate increase notices which are usually included in subscribers' monthly bills along with other marketing and advertising material. As a result, most subscribers are unaware of an increase in rates until after 30 days has passed and the rate increase has become effective. A 60 day notice would also accommodate the inclusion of local franchise authority

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complaint is manifest in an area other than cable programming rates, but because of a consumer's frustration, and a desire to take a drastic measure, a consumer files a formal cable programming rate complaint with the FCC. Similarly, a cable subscriber unaware of any other complaint resolution process, may inappropriately file a cable programming complaint with the FCC. In cases of this nature, the local authority could resolve the complaint or direct the complaint through the appropriate channels. This could save time and energy for the FCC and the subscriber and not unduly burden the local authority which is presently responsible for resolving such complaints.

[21] Conflict does not exist because a franchising authority would not have the authority under this proposal to withhold filing a subscriber's complaint with the FCC. If after a complaint is filed with the franchising authority, the complaint is resolved at the local level to the subscriber's satisfaction, the subscriber may choose not to have the complaint forwarded to the FCC. If a subscriber does not so choose, the franchise authority is obligated to file the complaint with the FCC within the specified time period.

participation in the complaint process as proposed by the Massachusetts Commission and described below.

The FCC proposes to require that all complaints be served on both the cable operator and the franchising authority by the complaining parties. After a complaint is served, an operator would have a reasonable time in which to file a response - either fifteen (15) or thirty (30) days. The FCC would look at both the complaint and responses before deciding whether there was a minimum showing to allow the complaint to proceed. Notice, Paragraph 103.[22]

In addition to requiring the complaining party to serve the cable operator with a copy of the complaint, we propose that the franchise authority also forward a copy of the completed complaint to the cable operator. This should be done at the same time the local authority forwards the complaint to the FCC. We propose a 30 day period (rather than a fifteen (15) day period) in which a cable operator would be required to file a response to a complaint with the FCC. This thirty (30) day period would begin when the operator receives the original complaint from the complaining party and not when it receives the complaint from the franchise authority. We believe that a franchise authority should also be required to file complaints with the FCC within

[22] By adding franchise authority comments to the complaint, the FCC will have a third perspective on the complaint. Not only will the FCC look at the subscriber complaint and the cable operator's response but also the FCC will have available the franchise authority input when deciding whether or not there is a minimum showing to allow for the complaint to proceed.

thirty (30) days of receipt from the complaining party. By requiring the same filing time period, there would be no effective delay in FCC review of the complaint due to the added level of review by the franchise authority.

We appreciate the opportunity to comment on these matters of great importance to the cable industry and to cable subscribers and look forward to working to implement the regulations promulgated by the FCC.

Respectfully submitted,

John M. Urban, Commissioner

January 26, 1993